

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

KEVEN LEE CARTER,

Petitioner,

vs.

DONALD GAETZ,

Respondent.

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Case No.: 3:09-cv-00517-GPM-PMF

REPORT AND RECOMMENDATION

FRAZIER, Magistrate Judge:

Before the Court is Petitioner's Motion to Show Cause (Doc. 5) which is **CONSTRUED** as a request for an order directing his release pending a final decision on his habeas claims, and a request for the Court to order Respondent to answer his Petition.

In *Cherek v. United States*, 767 F.2d 335 (7th Cir. 1985) and *Luther v. Molina*, 627 F.2d 71, n. 11 (7th Cir. 1980), the Court's ancillary power to order bail in an action for a writ of habeas corpus was recognized, along with the fact that the power to do so is very narrow and should be exercised sparingly.

Carter is challenging a prison disciplinary decision to revoke four months of good conduct credits in June and July of 2006. He is not challenging his underlying conviction or his 13-year prison sentence. He is eligible for parole but has not yet been approved for release by the prisoner review board. He is confined at Menard Correctional Center and describes a variety of adverse decisions regarding his confinement.

Because Carter's request is not accompanied by exceptional circumstances showing that release is justified, or that the Respondent answer his Petition, **IT IS RECOMMENDED** that his Motion (Doc. 5) be **DENIED**.

SO RECOMMENDED.

SUBMITTED: March 9, 2010.

s/ Philip M. Frazier
PHILIP M. FRAZIER
UNITED STATES MAGISTRATE JUDGE